

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

CHRISTINE HARVEY,)
Plaintiff,)
v.) CV 119-121
SOCIAL SECURITY)
ADMINISTRATION,)
Defendant.)

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

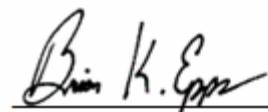
Plaintiff is proceeding *pro se* and requested permission to proceed *in forma pauperis* (“IFP”). On August 12, 2019, the Court denied Plaintiff’s IFP motion without prejudice and directed her to submit an updated IFP motion containing accurate and complete financial information. (Doc. no. 3, p. 2.) The Court also directed Plaintiff to submit an amended complaint because the original complaint did not name the Commissioner of Social Security as Defendant, failed to attach a copy of the final administrative decision, and did not identify any alleged errors with the administrative decision. (*Id.* at 3-4.) The Court cautioned Plaintiff that failing to submit a timely IFP motion and amended complaint may result in a recommendation for dismissal of this action. (*Id.* at 5.) The time to respond has passed, and Plaintiff has not submitted an updated IFP motion or an amended complaint as required by the Court’s August 12, 2019 Order.

A district court has authority to manage its docket to expeditiously resolve cases, and this authority includes the power to dismiss a case for failure to prosecute or failure to comply with a court order. Equity Lifestyle Props., Inc. v. Fla. Mowing & Landscape Serv., Inc., 556 F.3d 1232, 1240 (11th Cir. 2009) (citing Fed. R. Civ. P. 41(b)); see also Eades v. Ala. Dep’t of Human Res., 298 F. App’x 862, 863 (11th Cir. 2008) (*per curiam*) (“District courts possess the ability to dismiss a case . . . for want of prosecution based on two possible sources of authority: Fed. R. Civ. P. 41(b) or their inherent authority to manage their dockets.”). Moreover, the Local Rules of the Southern District of Georgia dictate that an “assigned Judge may, after notice to counsel of record, *sua sponte* . . . dismiss any action for want of prosecution, with or without prejudice . . . [for] [w]illful disobedience or neglect of any order of the Court; or [a]ny other failure to prosecute a civil action with reasonable promptness.” Loc. R. 41.1(b) & (c). Finally, dismissal without prejudice is generally appropriate pursuant to Rule 41(b) where a plaintiff has failed to comply with a court order, “especially where the litigant has been forewarned.” Owens v. Pinellas Cty. Sheriff’s Dep’t, 331 F. App’x 654, 655 (11th Cir. 2009) (*per curiam*) (citing Moon v. Newsome, 863 F.2d 835, 837 (11th Cir. 1989)).

Here, Plaintiff’s failure to file an updated IFP motion or an amended complaint, or even to provide the Court with an explanation for her failure to comply with the August 12th Order, amounts not only to a failure to prosecute, but also an abandonment of her case. This is precisely the type of neglect contemplated by the Local Rules. The Court cautioned Plaintiff that a failure to respond may result in a recommendation for dismissal. Furthermore, because Plaintiff requested permission to proceed IFP, the Court finds that the imposition of monetary sanctions is not a feasible sanction.

In sum, the time to respond has passed, and Plaintiff has not submitted an updated IFP motion or an amended complaint as required by the Court's August 12, 2019 Order. Therefore, the Court **REPORTS** and **RECOMMENDS** this case be **DISMISSED** without prejudice and that this civil action be **CLOSED**.

SO REPORTED and RECOMMENDED this 9th day of September, 2019, at Augusta, Georgia.



BRIAN K. EPPS
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA